IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 10949 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE D.K.TRIVEDI
and
HON'BLE MR.JUSTICE S.R.BRAHMBHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GIRISH KANJIBHAI PATEL,THRO' PATEL KANJIBHAI KACHARADAS
Versus
STATE OF GUJARAT

Appearance:
1. Criminal Misc.Application No. 10949 of 2004
MS SADHANA SAGAR for Petitioner No. 1
MR KJ SHETHNA for Petitioner No. 1
MS DS PANDIT ADDL PP for Respondent No. 1
..... for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE D.K.TRIVEDI
and
HON'BLE MR.JUSTICE S.R.BRAHMBHATT

Date of decision: 02/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE D.K.TRIVEDI)

1. Rule. Ms. D.S. Pandit, learned Addl.P.P. waives service of Rule on behalf of respondent State. By consent of the counsel appearing in the matter, Rule is fixed forthwith.

2. Heard Ms. Sagar, learned advocate for the applicant accused and Ms. Pandit, learned Addl.P.P. for the respondent State. Ms. Sagar, learned advocate appearing for the applicant has taken us through the application and the enclosures attached to the same and prayed that the applicant be released on temporary bail for a limited period, though the applicant had prayed for temporary bail for a period of 4 weeks.

3. This application is filed by Kanjibhai - father of the applicant convict, who is also a co-accused and was released on bail in a pending appeal. This application is supported with an affidavit of Shri Kanjibhai dated 27.11.2004 before the Notary Public on 27.11.2004. The ground for seeking temporary bail is on account of marriage of applicant's brother-in-law namely "Jigar", which is scheduled to be held at Surat on 6.12.2004 and other programme with marriage is scheduled to start from 4.12.2004. In para 4, the applicant has highlighted the reasons for filing this application for seeking temporary bail. It is the case of the applicant that his presence is required during marriage of his brother-in-law Jigar. In para-3, it is the case of the applicant that he was released on temporary bail two times earlier and all the times, he had surrendered to be jail authority in time.

4. Ms. Pandit, learned Addl.P.P. has produced the jail statement, which shows that the applicant convict was convicted by the learned Additional Sessions Judge, Fast Track Court, Patan on 30.1.2003 for the offence punishable under Section 304 (1) of the IPC and ordered to suffer RI for 10 years and fine. He is in jail for more than about 3 years including the period of set off. His jail conduct is good. The convict was released on temporary bail twice for 3 days and 42 days respectively and all the times, the applicant convict had surrendered to the jail authority in time.

5. In light of the submissions made before us, we are of the view that there is some substance in the

application for which we are inclined to release the applicant accused on temporary bail for a limited period only to unable him to attend the marriage ceremony of his brother-in-law, which is to start from 4.12.2004. Accordingly, the applicant convict is ordered to be released on temporary bail on usual terms and conditions on depositing cash amount of Rs.3000=00 (Rs.Three Thousand only) with the jail authority and also on executing a personal bond of like amount, on condition that the applicant shall not leave the jurisdiction of Gujarat State during the period of temporary bail. The applicant convict is ordered to be released from jail on 3.12.2004 and he shall surrender to the jail authority on 9.12.2004 before 4-00 P.M. Rule is made absolute in above terms. Direct service permitted.

(D.K. Trivedi, J.)

(S.R. Brahmbhatt, J.)
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